

United States District Court

District- Eastern District of New York

Name

Prisoner No.

Case No.

Darrell Watson

00-A-1894

Place of Confinement

Great Meadow Correctional Facility

Name of Petitioner (include name under which convicted)

Name of Respondent (authorized person having custody of petitioner)

DARRELL WATSON

V.

GARY GREENE, Superintendent

The Attorney General of the State of: New York

Eliot Spitzer

PETITION

1. Name and location of court which entered the judgment of conviction under attack _____
State Supreme Court, Kings County

2. Date of judgment of conviction March 13, 2000

3. Length of Sentence 25 years to life

4. Nature of offense involved (all counts) _____
Murder in the first degree [N.Y.P.L. §125.27(1)(a)(vii)]'

5. What was your plea? (Check one)

(a) Not guilty ☒

(b) Guilty ☐

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒

(b) Judge only ☐

Did you testify at the trial?

Yes ☐ No ☒

Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:
- (a) Name of court New York Supreme Court, Appellate Division, Second Department
- (b) Result Affirmed
- (c) Date of result and citation, if known April 4, 2005, People v. Watson, 17 A.D.3d 385 (2d Dept. 2005)
- (d) Grounds raised appellant was denied his constitutional rights of due process, to present a defense, and confront the witnesses against him by (a) the preclusion of cross-examination of the investigating officers regarding memo in police file (b) the delayed disclosure of that Brady material until the middle of trial
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

- (1) Name of Court New York State
- (2) Result leave denied
- (3) Date of result and citation, if known June 20, 2005, 5 N.Y.3d 771 (2005)
- (4) Grounds raised same as above: preclusion of cross-examination and denial of confrontation rights and Brady violation

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal?
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a)(1) Name of court _____
- (2) Nature of proceeding _____
- (3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion, give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc.

Yes ☐ No ☐

(2) Second petition, etc.

Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting the same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with the understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right to appeal.

A. Ground one: denial of right of confrontation

Supporting FACTS (state *briefly* without citing cases or law) Petitioner was not allowed to ask any questions of detective investigators regarding their failure to follow up on memo in detective's file indicating that Rakeem Harvey "accidentally" fired the gun that killed and not petitioner the victim in this case. Defense was denied evidence that would have supported their argument that police investigators did not do thorough investigation.

B. Ground two: delayed disclosure of Brady material

Supporting FACTS (state *briefly* without citing cases or law) Although defense counsel had requested Brady material, memo stating Harvey was the shooter was not turned over until 16 months later in the middle of the trial, effectively suppressing that exculpatory information and denying the defense any opportunity to investigate the information and use it as part of its case.

C.

Supporting FACTS (state *briefly* without citing cases or law) _____

D.

Ground four: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reason for not presenting them: _____

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
Yes ☐ No ☐

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

- (c) At trial Heidi Segal, Legal Aid Society, Criminal Defense Division
111 Livingston Street, Brooklyn, NY 11201
- (d) At sentencing _____
- (e) On appeal William Carney, Legal Aid Society, Criminal
Appeals Bureau, 199 Water Street, New York, NY 10038
- (f) In any post-conviction proceedings _____
- (g) On appeal from any adverse ruling in a post conviction proceedings _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
 Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
 Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
 Yes ☐ No ☐

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceedings.

 Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

4-25-06
 (date)

Darrell Watson
 Signature of Petitioner

4. Do you have any money, including any money in a checking or savings account? If so, how much?

NO

5. Do you own any apartment, house or building, stocks, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No ☐ Yes, _____

6. List the person(s) that you pay money to support and the amount you pay each month.

NONE

7. Do you pay for rent or for a mortgage? If so, how much each month?

NO

8. State any special financial circumstances which the Court should consider.

NONE

I understand that the Court shall dismiss this case if I give a false answer to any question in this declaration. In addition, if I give a false answer I will be subject to the penalties for perjury.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: 4/25/06

Darrell Watson

(signature)

rev. 7/2002

WESLEY E. PERRY
Notary Public, State of New York
Qualified in Wash. Co. No. 01PE6026485
My Commission Expires June 14, 2007